

Remarks**A. Period For Reply**

A shortened statutory period was set to expire three months from the Office Action of July 1, 2004. This Amendment and Remarks is being filed on or before October 1, 2004 (within three months from the date of the Office Action).

B. Status

The Office Action was non-final.

C. Disposition Of Claims

Claims 4-7 are pending. Since claims 1-3 have been withdrawn by the Patent Office, these claims have been canceled.

D. Application Papers

As to drawings, there are no drawings in this case.

E. Priority under 35 U.S.C. §§ 119 and 120

Acknowledgment of the claim for foreign priority and of the receipt of the priority document were made in the Office Action dated July 1, 2004. This is appreciated.

As to domestic priority, this case does not claim domestic priority.

F. Attachments

Applicants filed one PTO-1449 form in this application, with the filing of this case on October 13, 2003. The PTO-1449 form has been initialed and signed by the Patent Office and returned with the Office Action of July 1, 2004. This is very much appreciated.

G. Basis for amendments to the claims and basis for new claims

Support for new dependent claim 5 includes page 6, lines 18-22 of the specification.

Support for new dependent claim 6 includes Table 1 on page 18 of the specification showing the physical strength of the catalysts of Examples 1-6 and the physical strength of the catalysts of the Comparative Examples 1-5.

Support for new dependent claim 7 is found on page 12, line 24 to page 13, line 7.

H. The Office Action

H.1. Election/Restrictions

On page 2 of the Office Action, restriction was required. Applicant hereby affirms the election with traverse to prosecute the invention of Group II (claim 4, and now further including claims 5, 6 and 7).

H.2. Claim Rejections - 35 USC § 103

On pages 3-5 of the Office Action, claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over "Applicant's Admission in view of Sugi." This rejection is respectfully traversed.

H.2.a. What is an admission? What is prior art? What is background art?

The Patent Office states as follows on page 4 of the Office Action:

In this connection, Applicant sets forth that the following is known in the prior art..[emphasis added]

It is noted that the portion of applicant's specification reproduced by the Patent Office is taken from the "Background Art" section, not from a section entitled "Prior Art." Background art is not prior art. Therefore, since there is no prior art, there can be no admission of prior art. It is respectfully submitted that the definition of an "admission" is very different from the definition of "prior art" which yet is very different from the definition of "background art."

It is respectfully suggested that the references themselves may form a basis for a rejection, such as JP-A-096183/1993 found on page 1 of applicant's specification. It is respectfully suggested that such reference itself may be combined with the Sugi reference, if that is the choice made by the Patent Office.

H.2.b. Setting aside the above argument for the present

Applicant chooses to set aside for the present any argument relating to what is an admission, what is prior art, and what is background art. Accordingly, the arguments below are "even if" arguments. In other words, even if the Patent Office's argument as to an "admission" and "prior art" holds up under Federal Circuit standards, which it would not, claims 4-7 are still allowable on the basis of applicant's discussion below.

H.2.c. The pH limitation of independent claim 4

JP-A-096183/1993 does not disclose or suggest the requirement of independent amended claim 4 that the liquid binder be an aqueous liquid of 7.0 to 10.0 in pH. This requirement, and the advantages of this requirement, are set out in detail in applicant's specification from page 6, line 18 to page 8, line 15.

In JP-A-096183/1993, polyvinyl alcohol, a water-absorbent resin, and water are added to a resultant dried material. Water is the liquid binder of JP-A-096183/1993. Here the Patent Office may wish to take note of applicant's specification on page 8, lines 13-15, where it is taught that:

In addition, generally, water (e.g. ion-exchanged water) is also used as the liquid binder. However, in the usual handling, even the ion-exchanged water exists in a state having absorbed carbon dioxide gas from air. Therefore, its pH is not 7.0, but in the weak acid range less than it.

The Sugi reference does not cure the deficiency of JP-A-096183/1993 because the Sugi reference too lacks a teaching of the requirement of the liquid binder being an aqueous liquid of 7.0 to 10.0 in pH. In JP-A-299797/1996 (the counterpart JP application of the Sugi reference), the resultant calcined structure was supported on a carrier using an aqueous glycerol solution as a binder. Although glycerol is neutral, its solution shows weak acidity for the same reason that water shows weak acidity.

Hence, even if combined, JP-A-096183/1993 and the Sugi reference do not disclose or suggest the requirement of independent amended claim 4 that the liquid binder be an aqueous liquid of 7.0 to 10.0 in pH. Allowance of independent amended claim 4 is respectfully requested.

H.2.d. The pH limitation of dependent claim 5

Dependent claim 5 requires that the liquid binder be an aqueous liquid of 7.5 to 9.5 in pH. Again, even if JP-A-096183/1993 and the Sugi reference are combined, such a combination fails to disclose or suggest such a requirement. Allowance of dependent claim 5 is respectfully requested.

H.2.e. The physical strength requirement of dependent claim 6

Please compare the physical strengths of the catalysts of Examples 1-6 with the physical strengths of the catalysts of Comparative Examples 1-5. Consideration of dependent claims 6 and 7 would be appreciated.

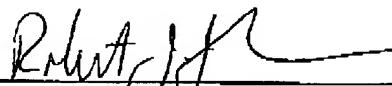
As to physical strength, the value for the physical strength is high in the case where the catalyst breaks relatively little. The value for the physical strength is low where the catalyst relatively greatly breaks apart. For example, in the case where the physical strength of the catalyst is 99 mass %, 1 mass % of the catalyst has been broken and has passed the sieve, and 99 mass % of the catalyst has not been broken and has remained on the sieve.

A catalyst having a high value for the physical strength provides an excellent yield, and the cost of a reaction using such a catalyst is relatively low, because the catalyst remains relatively intact and is difficult to break. Pressure loss is thereby minimized.

I. Summary

It is respectfully submitted that the present case is in condition for allowance.

Date: 9.30.2004



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